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In re Application of	:	
OZAKI et al	:	DECISION ON
Application No.: 10/553,601	:	
PCT No.: PCT/JP2004/005818	:	
Int. Filing Date: 22 April 2004	:	PETITION UNDER
Priority Date: 22 April 2003	:	
Attorney Docket No.: 10/553,601	:	
For: CELL STIMULATING DEVICE AND CELLS	:	
STIMULATING METHOD	:	37 CFR 1.181

This decision is in response to applicant's "COVER LETTER REGARDING SUBMISSION OF SUPPLEMENTAL APPLICATION DATA SHEET" filed on 15 August 2008 with the correct name of the second inventor as Kouichi, ITOH. This is being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 22 April 2004, applicants filed international application No. PCT/DE03/01519, which claims a priority date of 22 April 2003.

On 18 October 2005, applicant filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, the basic national fee. No executed declaration was filed on such date.

On 22 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, *inter alia*, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it: is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.

On 23 July 2007, applicants filed an executed declaration.

On 22 February 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916), which, *inter alia*, stated that the spelling of the second inventor's first name on the declaration doesn't correspond with the spelling on the published application.

On 15 August 2008, applicants responded with the current petition.

DISCUSSION

It is unclear from the submission whether the corrected name is due to a name change or a typographical error since applicant has provided no explanation. Therefore, the declaration of the inventor is not acceptable at this time, in that the name of the named inventor, Kouichi ITOH, does not correspond to that set forth in the international application, Koichi, ITO.

MPEP § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Applicant must provide items (1) and (2) for consideration. Alternatively, applicants may provide a showing that the name change was effected in accordance with PCT Rule 92Bis prior to the filing of the present national stage application.

Also, in the case where there is no change name of the individual but an incorrect name was given, a petition under 37 CFR 1.182 should be filed requesting correction of applicant's name.

If, however, the name change is due to a typographical error then applicant needs to state and explain it by filing a petition under 37 CFR 1.181. If filed under 37 CFR 1.181 the reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

For the reasons above, the application may not enter into national stage processing at this time.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED**, without prejudice.

A proper response to the Notice must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response will result in ABANDONMENT.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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